

EDUCATION LAW § 2 D BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

Parents (including legal guardians or persons in parental relationships) and Eligible Students (students 18 years and older) can expect the following:

1. A student's personally identifiable information (PII) cannot be sold or released for any commercial purpose. PII, as defined by Education Law § 2-d and the Family Educational Rights and Privacy Act ("FERPA"), includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as a student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity. Please see FERPA's regulations at 34 CFR 99.3 for a more complete definition.
2. The right to inspect and review the complete contents of the student's education record stored or maintained by an educational agency. This right may not apply to Parents of an Eligible Student.
3. State and federal laws such as Education Law § 2-d; the Commissioner of Education's Regulations at 8 NYCRR Part 121, FERPA at 12 U.S.C. 1232g (34 CFR Part 99); Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. 6501-6502 (16 CFR Part 312); Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. 1232h (34 CFR Part 98); and the Individuals with Disabilities Education Act ("IDEA") at 20 U.S.C. 1400 et seq. (34 CFR Part 300); protect the confidentiality of a student's identifiable information.
4. Safeguards associated with industry standards and best practices including, but not limited to, encryption, firewalls and password protection must be in place when student PII is stored or transferred.
5. A complete list of all student data elements collected by NYSED is available at www.nysed.gov/data-privacy-security, and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.
6. The right to have complaints about possible breaches and unauthorized disclosures of PII addressed. Complaints may be submitted to NYSED at <http://www.nysed.gov/data-privacy-security/report-improper-disclosure>, by mail to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234; by email to privacy@nysed.gov; or by telephone at 518-474-0937.
7. To be notified in accordance with applicable laws and regulations if a breach or unauthorized release of PII occurs.
8. Educational agency workers that handle PII will receive training on applicable state and federal laws, policies, and safeguards associated with industry standards and best practices that protect PII.
9. Educational agency contracts with vendors that receive PII will address statutory and regulatory data privacy and security requirements.

APPENDIX R

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SUPPLEMENTAL INFORMATION FOR CONTRACTS THAT UTILIZE PERSONALLY IDENTIFIABLE INFORMATION

Pursuant to Education Law §2-d and Section 121.3 of the Commissioner’s Regulations, the New York State Education Department (NYSED) is required to post information to its website about its contracts with third-party contractors that will receive Personally Identifiable Information (PII).

Name of Contractor	Questar Assessment
Description of the purpose(s) for which Contractor will receive/access PII	Student demographic data will be provided to the Contractor for the purpose of it performing the following tasks for NYSED: conducting field testing and operational testing, analyzing field test items and producing operational test results. The Contractor will also be gathering student test result data in scoring students’ responses to multiple-choice questions and determining students’ scale score and performance level results.
Type of PII that Contractor will receive/access	Check all that apply: <input checked="" type="checkbox"/> Student PII <input type="checkbox"/> APPR Data
Contract Term	Contract Start Date: <u>December 1, 2020</u> Contract End Date: <u>November 30, 2021</u>
Subcontractor Written Agreement Requirement	Contractor will not utilize subcontractors without a written contract that requires the subcontractors to adhere to, at a minimum, materially similar data protection obligations imposed on the contractor by state and federal laws and regulations, and the Contract. (check applicable option) <input checked="" type="checkbox"/> Contractor will not utilize subcontractors. <input type="checkbox"/> Contractor will utilize subcontractors.
Data Transition and Secure Destruction	Upon expiration or termination of the Contract, Contractor shall: • Securely transfer data to NYSED, or a successor contractor at the NYSED’s option and written discretion, in a format agreed to by the parties. • Securely delete and destroy data.
Challenges to Data Accuracy	Parents, teachers or principals who seek to challenge the accuracy of PII will do so by contacting NYSED. If a correction to data is deemed necessary, NYSED will notify

	Contractor. Contractor agrees to facilitate such corrections within 21 days of receiving NYSED's written request.
Secure Storage and Data Security	<p>Please describe where PII will be stored and the protections taken to ensure PII will be protected: (check all that apply)</p> <p><input checked="" type="checkbox"/> Using a cloud or infrastructure owned and hosted by a third party.</p> <p><input checked="" type="checkbox"/> Using Contractor owned and hosted solution</p> <p><input type="checkbox"/> Other: _____</p> <p>_____</p> <p>Please describe how data security and privacy risks will be mitigated in a manner that does not compromise the security of the data: <u>Hosting provider do not have access to NYSED's data. All data is hosted in the United States. Only authorized personnel have access to data, and granted only as part of their job function.</u></p> <p><u>NYSED data is encrypted using a key generated, and maintained, by Questar. The hosting provider is unable to access the data without the key. The key can only be accessed by authorized Questar personnel.</u></p>
Encryption	<p>Data is encrypted while in motion and at rest.</p> <p>_____</p> <p>_____</p>



Contractor Signature:

Brendan Kealey, Information Officer

Date:

July 23, 2020